

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:19cr334-4
	.	
vs.	.	Alexandria, Virginia
	.	January 19, 2021
ERIC YONG WOO,	.	10:28 a.m.
	.	
Defendant.	.	
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. . . . .	.	

TRANSCRIPT OF ARRAIGNMENT/MOTION HEARING  
BEFORE THE HONORABLE LEONIE M. BRINKEMA  
UNITED STATES DISTRICT JUDGE  
(Via VTC/ZoomGov Videoconference)

APPEARANCES:

FOR THE GOVERNMENT:	DAVID A. PETERS, AUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314
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FOR THE DEFENDANT:	PATRICK A. MULLIN, ESQ. The Law Offices of Patrick A. Mullin 45 Rockefeller Plaza, Suite 2000 New York, NY 10111
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OFFICIAL COURT REPORTER:	ANNELIESE J. THOMSON, RDR, CRR U.S. District Court, Third Floor 401 Courthouse Square Alexandria, VA 22314 (703)299-8595
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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

## P R O C E E D I N G S

(Defendant present via VTC video.)

THE CLERK: Criminal Case 19-334-4, United States of America v. Eric Yong Woo. Would counsel please note their appearances for the record.

MR. PETERS: Good morning, Your Honor. David Peters for the United States.

THE COURT: All right, Mr. Peters.

And for the defendant?

MR. MULLIN: Your Honor, good morning. I'm Patrick Mullin, appearing on behalf of Mr. Woo.

THE COURT: All right. And Mr. Woo is here by Zoom. I want to know, Mr. Woo, whether you have any objection to appearing remotely today.

Mr. Woo, we can't hear you. There's no sound.

THE DEFENDANT: No.

THE COURT: No, all right.

THE DEFENDANT: No.

THE COURT: And, counsel, have you discussed with your client his right to be in person in the courthouse?

MR. MULLIN: Yes, Judge. We spoke by phone a few days ago, and he was aware of that, and he has no objection to proceeding in this fashion.

THE COURT: All right, that's fine.

Then let me ask you, counsel, have you had a chance

1 to go over the indictment yourself?

2 MR. MULLIN: Yes, I have, Judge.

3 THE COURT: And to review the indictment with your  
4 client?

5 MR. MULLIN: Yes. Again, we discussed it a few days  
6 ago. Yes.

7 THE COURT: Do you wish to have a formal or an  
8 informal arraignment?

9 MR. MULLIN: Judge, we waive a reading of the  
10 indictment, Judge.

11 THE COURT: I assume you're entering a plea of not  
12 guilty?

13 MR. MULLIN: Yes, we are.

14 THE COURT: And are you requesting a trial by the  
15 bench or by a jury?

16 MR. MULLIN: By jury, Your Honor.

17 THE COURT: All right. As I'm sure Mr. Peters has  
18 explained to you, we've previously found that this case does  
19 qualify as a complex case because of the number of defendants,  
20 the amount of evidence that is obtained from foreign sources,  
21 the need for much of it to be translated.

22 In addition, of course, we're also struggling with  
23 the COVID-19 situation, and I'm sure you're aware that the  
24 standing general order that's just been issued by the chief  
25 judge has postponed any jury trials through the month of

1 February, so we're looking at March as the earliest time in  
2 which this case could be set for trial.

3 I believe also, Mr. Peters, is there not a status  
4 conference currently set for next Tuesday?

5 MR. PETERS: There is, Your Honor, and I think the  
6 intention was to, I hope, set a trial date at that, at that  
7 conference, and so insofar as today's hearing is concerned,  
8 perhaps we could reserve setting a trial date today in lieu of  
9 next week.

10 THE COURT: We have to do that because there are  
11 multiple defendants; and therefore, we have to set the trial  
12 date when all defendants can be present. We'll most likely  
13 have to decide how we do that. It probably will be done  
14 remotely again because of the number of defendants. Some are  
15 in Alexandria, and some are at Warsaw. I don't know if any are  
16 at Rappahanock, but we have people spread out among various  
17 prisons, in part because of the COVID situation.

18 Is there any objection to proceeding in that fashion?

19 MR. PETERS: Not from the government.

20 MR. MULLIN: Not from the defendant, Judge.

21 THE COURT: All right. So then it's scheduled, I  
22 believe, for 10:00 next Tuesday; is that right? If not, it  
23 probably needs to be at 10:00 because my understanding is we  
24 can't do any videoconferences -- that may be a problem.

25 How many defendants are left in this case at this

1 point, Mr. Peters, besides Mr. Woo? I know we have Mr. Li.  
2 Now, who else do we have?

3 MR. PETERS: Not counting Mr. Woo, Your Honor, in  
4 custody right now there are four defendants, and one remains a  
5 fugitive.

6 THE COURT: All right. So we have a total of five  
7 defendants that need to be present at the arraignment next week  
8 or the trial, the trial-setting date -- status conference next  
9 week.

10 MR. PETERS: That's correct, Your Honor.

11 THE COURT: Yeah. We're going to have to look at  
12 what time we do that, all right? As I said, I know the jail  
13 cannot do VTC -- Alexandria Jail cannot do VTC before 10:00.  
14 Because Mr. Woo is at Northern Neck, I think they start even  
15 later, and I currently have an 11:00 civil matter. So I'm not  
16 yet sure what time on the 26th, counsel, we'll be able to set  
17 this. We'll let you know as soon as we've worked it out.

18 Are you pretty much available all day on the 26th?

19 MR. MULLIN: Your Honor, I am.

20 THE COURT: All right. That's fine, Mr. Mullin. I'm  
21 sure Mr. Peters is. I'm not worried about that.

22 So just be on standby. We're going to have to  
23 coordinate this with several other attorneys. If you haven't  
24 already been in touch with some of the other attorneys, you  
25 ought to try to, you know, communicate with them.

1           Let me take care of a couple of other preliminary  
2 matters. Mr. Woo, I want to repeat what I believe Judge  
3 Anderson already did with you but explain to you that under  
4 Federal Rule of Criminal Procedure 5(f) and the Due Process  
5 Protections Act, I am advising the government that it must  
6 adhere to the disclosure obligations set forth in *Brady v.*  
7 *Maryland* and --

8           THE DEFENDANT: I can't hear.

9           THE COURT: I'm sorry?

10          THE DEFENDANT: I just interrupted. I cannot hear  
11 what you said before.

12          THE COURT: We'll try again. I'm re-advising you of  
13 the matters which Judge Anderson explained to you during your  
14 earlier hearings last week, and that is, that under Federal  
15 Rule of Criminal Procedure 5(f) and the Due Process Protections  
16 Act, the government is required to disclose to you all  
17 information that's required under *Brady v. Maryland* and its  
18 progeny, and that case, *Brady v. Maryland*, requires the  
19 government to provide any possible exculpatory evidence, any  
20 evidence that might tend to show that you are innocent of the  
21 charge or which might assist in your sentencing situation.

22          Do you understand that?

23          THE DEFENDANT: Yes.

24          THE COURT: All right. And if the government fails  
25 to comply with that requirement, it could result in serious

1 consequences, including vacating any conviction that might  
2 occur as well as disciplinary action against the prosecutors.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. I also have in court a  
6 protective order which has been, as I understand it,  
7 Mr. Mullin, agreed to by you on behalf of your client as well  
8 as a discovery order. Is that correct?

9 MR. MULLIN: That is correct, Judge.

10 THE COURT: All right. So both of those -- all of  
11 those orders will be entered this morning. All right. I've  
12 made a finding that this is a complex case.

13 The last issue, I believe, that's on the agenda is  
14 your motion for reconsideration of the bond situation. The  
15 magistrate judge in California who did the initial appearance  
16 for your client and the initial detention hearing found that  
17 your client posed a significant risk of flight.

18 THE DEFENDANT: I can't hear anything.

19 THE COURT: You can't hear again? Mr. Woo, you can't  
20 hear?

21 THE DEFENDANT: Yeah, I can't hear.

22 THE COURT: All right. The last issue we have to  
23 look at today is your motion for the Court to reconsider the  
24 detention order that was entered in California.

25 THE DEFENDANT: Um-hum.

1 THE COURT: Did you hear that?

2 THE DEFENDANT: Yeah, I heard it.

3 THE COURT: All right.

4 THE DEFENDANT: I just heard that.

5 THE COURT: All right. The magistrate judge in  
6 California found that there is no condition or set of  
7 conditions of release that would reasonably assure your  
8 appearance in this district for further court proceedings.  
9 Today I can conduct a de novo review of that decision. I have  
10 read all the papers that have been submitted -- did you hear  
11 that?

12 THE DEFENDANT: I just hear whatever you said, you  
13 reconsider the motion in California.

14 THE COURT: I can reconsider it. So, Mr. Mullin,  
15 you've seen the government's response to your motion in which  
16 the government points out that your client has used or  
17 attempted to use fake identification, and they've sent the  
18 Court a copy of this People's Republic of China passport in the  
19 name of Nan Li.

20 Do you want to address that?

21 MR. MULLIN: Certainly, Judge. In terms of the  
22 government's position, a couple of things. First of all, at  
23 worst, the government's position is that my client was a  
24 courier, that is, someone who carried money for folks that were  
25 up to no good, Judge, and while one of the factors that is



1 considered under the bail statute is the weight of the evidence  
2 against somebody, here this is not someone who is alleged to be  
3 a leader of any organization, someone who is involved in drug  
4 trafficking, as the other defendants are, so I think that  
5 factor weighs towards giving bail to my client.

6 In terms of the actual passport, my understanding of  
7 the name on that passport, that that name, Nan Li, is something  
8 that my client had going back to China when he was a third  
9 child born in a family where the government only allowed one or  
10 two folks. That was the policy back then in effect, so that  
11 that name was one that was given to him back then.

12 The import of the passport itself or any other  
13 document that alleges to have been fraudulently put together,  
14 I -- we're not in a position in any way to address it  
15 otherwise.

16 MR. PETERS: Your Honor, I'm sorry to interrupt. I  
17 can't hear Mr. Mullin at all.

18 THE COURT: Yeah. Mr. Mullin, you're going in and  
19 out. What are you -- what are you using to communicate with  
20 us?

21 MR. MULLIN: An iPad.

22 THE COURT: That may be the problem. Your voice is  
23 coming and going. I'm not sure even if my court reporter has  
24 been able to get all of it, but --

25 MR. MULLIN: Do you want me to call in, Your Honor?

1           THE COURT: Right now, what you just said was crystal  
2 clear. Maybe just don't move. Freeze yourself in position,  
3 and keep talking where you are. Maybe that will solve the  
4 problem.

5           MR. MULLIN: Okay. Let's try it again.

6           THE COURT: All right.

7           MR. MULLIN: All right. Your Honor, as to the  
8 passport itself, the name on that passport -- can you hear me?

9           THE COURT: Yeah.

10          MR. MULLIN: Okay. The name on that passport is a  
11 name that I am advised was given to my client at birth with  
12 regard to the policy in China where only one or two children  
13 were allowed to be born, and he is the youngest of a  
14 three-children family. Otherwise, in terms of the actual  
15 document itself, at this point, there's not much that I can  
16 address that, but I think more importantly, what we're looking  
17 to do here is to have bail set for him with a third-party  
18 custodian.

19               He would be living with his parents. He would be  
20 living with his wife and his children. He would be subject to  
21 electronic monitoring. He would be subject to computer  
22 monitoring. There would be every assurance that he's going  
23 nowhere.

24               I've already sent an e-mail over to Pretrial Services  
25 with a phone number that they can contact his family to verify

1 information with regard to his parents serving as a third-party  
2 supervisor.

3 Otherwise, Judge, in reading the government's  
4 submission, he is at worst a courier for money. He's not a  
5 leader of any organization. He's not charged with any kind of  
6 drug conspiracy, where there would be a presumption of his, his  
7 remaining incarcerated. According to page 2 of the report from  
8 California, the bond report, when he was arrested, he did not  
9 have any false documentation on him.

10 Judge, there's every -- and he's also gone through  
11 very, very difficult times while incarcerated. I mean, it's  
12 taken over three months to get him to Virginia from California,  
13 and during that time, he received COVID-19. According to the  
14 California report, he has Hepatitis B, so he is in that risk  
15 category.

16 The government takes the position that he had COVID  
17 once; he can't get it again. Judge, that's not my  
18 understanding of how that works. So he is certainly at risk to  
19 get sick again while in jail.

20 And under the circumstances here, Judge, I would  
21 submit to you that he is a candidate for the third-party  
22 custodian supervision until trial takes place.

23 THE COURT: Well, one concern I have about the  
24 custodians, my understanding is the defendant's parents are  
25 both in their seventies, do not speak English, and are

1 essentially dependent upon him. Those indications would  
2 suggest that they would not be the type of custodian who would  
3 be able to exercise sufficient control and communicate any  
4 issues to probation.

5 And one of the reasons you gave why your client needs  
6 to be home is that his wife also does not speak English, and so  
7 I don't know how any of those three could be even considered  
8 adequate custodians because part of the job of a custodian is  
9 to be able to communicate immediately any potential violations  
10 that might be occurring.

11 But the second problem as I see this record is that  
12 your client has an extensive history of travel, especially to  
13 Mexico, to China, and to other countries, and, for example,  
14 apparently he has a Chinese passport and he's a Chinese  
15 citizen, and were he to go to China, whether we could ever  
16 extradite him would be a significant problem.

17 The flight risk, I think, is very real here, and even  
18 though your client himself is not charged with a presumption  
19 offense, he is included in an indictment that addresses  
20 significant international drug dealing, and that his role in  
21 this overall operation was to assist with the laundering of the  
22 proceeds, which is obviously the fuel that enables the drug  
23 business to go on.

24 So although it's not a presumption case, it is a  
25 serious one, and the government has in their papers pointed to

1 fairly significant evidence which they argue shows it's a  
2 strong case. Your client has been indicted, so that already  
3 establishes a minimum level of probable cause to believe that  
4 he may have committed the offense for which he is charged.

5 The, the flight risk is the concern that the Court  
6 has, and I'm not satisfied that there's any new evidence. If  
7 anything, I think the evidence may be stronger that there is  
8 this flight risk.

9 But let me hear from Mr. Peters. Mr. Peters?

10 MR. PETERS: Your Honor, I'd like to respond first to  
11 a few things that, that Mr. Mullin said. First off, we do not  
12 take the position that he can't get COVID again. We take the  
13 position that he's had it. The CDC has communicated that those  
14 who have had COVID-19 have developed antibodies which would aid  
15 in preventing him from getting at least the strain he's already  
16 suffered from.

17 We've made significant representations in our, in our  
18 pleading with respect to what the Northern Neck Jail is doing,  
19 what their current numbers are. We think, you know, while it's  
20 not ideal, they have the situation well in hand.

21 To the extent that Mr. Mullin says that the evidence  
22 at best shows that Mr. Woo is a courier, I think that's a  
23 misrepresentation as well of what we've alleged at least in  
24 this pleading. We've set forth evidence that we intend to  
25 prove at trial that he helped courier money on that occasion.

1           Also, the travel to Suriname, we intend to prove,  
2 one, happened; we intend to prove the reason for the travel;  
3 and we intend to prove that in the broader role of conspiracy,  
4 that the use of false identities, false travel documents loom  
5 large in the way that this group of, of codefendants  
6 perpetrated their crime.

7           So I think it's not entirely accurate to say that his  
8 involvement is merely as a courier. He indeed couriered money,  
9 and we're going to prove that. He did other things as well  
10 that are directly related to the conspiracy. I think his level  
11 of culpability goes considerably further than what Mr. Mullin  
12 has represented. And, you know, I think once we have an  
13 opportunity to provide discovery, we can properly hear  
14 (inaudible).

15           As far as, you know, the existence of a third-party  
16 custodian, as the Court pointed out, the proposed custodians  
17 are 70, don't speak English, are not from this country, and are  
18 simply not acceptable, but we would take the position that  
19 nobody would be acceptable.

20           If the Court were to allow Mr. Woo to return to Los  
21 Angeles, mere miles from the Mexico border, the amount of  
22 border crossings that I understand Mr. Woo has had just simply  
23 between the United States and Mexico suggests that it would be  
24 simple for him to border that -- to say he had business  
25 interests and disappear, and our, our ability to extradite

1 defendants from Mexico is not, is not zero, but it's not easy,  
2 and there's a significant opportunity that he could escape to  
3 Mexico and never come back, and if he were to get out of Mexico  
4 and into someplace like China, then I think our chances for  
5 ever expediting him are practically zero at that point.

6           He has no ties to this area. There's nobody here who  
7 could supervise him. So ostensibly, by releasing him to the  
8 custody of the third-party custodian, we would be consenting to  
9 him returning to southern California, where, one, he committed  
10 a significant portion of criminal activity; and two, that as I  
11 stated, he could easily escape out of the country, and we would  
12 stand no chance of ever retrieving him and bringing him back,  
13 back before this Court.

14           Also, as the Court pointed out, although Mr. Woo is  
15 not charged in Counts 1 or 2 of this conspiracy, the evidence  
16 is going to amply demonstrate that the money involved is the  
17 government's, and although the defendant is not charged in the  
18 (inaudible), I think what we're going to show is that there is  
19 significant evidence that he knew that. Whether that becomes  
20 an issue at, you know, potentially at sentencing would be  
21 something for the Court's consideration.

22           So again, the nature of the conduct, the breadth of  
23 the evidence, the risk of flight, the connection with  
24 transnational criminal organizations, the use of -- the  
25 prolific use of false identities, I think all militate in favor

1 of continued confinement in this case pending trial.

2 THE COURT: All right. Well --

3 MR. MULLIN: Judge, could I be heard?

4 THE COURT: Go ahead.

5 MR. MULLIN: Thank you, Judge. First, in terms of  
6 the age of Mr. Woo's client, I would submit that being in your  
7 seventies does not mean that you cannot be effective. Having  
8 been someone who just turned 71, you know, people who are in  
9 their seventies can still be active and vigilant and so forth,  
10 so I don't think that's really a factor.

11 Secondly, in terms of the communication as to  
12 Mr. Woo, there is at least one family member who I've spoken to  
13 who, who could remain available should any issues arise to  
14 serve as kind of a liaison to the Probation Department or  
15 Pretrial Services, and we certainly could look to set something  
16 up like that if that were to arise.

17 And I think the flip side is he's going to be living  
18 not only with his parents but with his wife and his children.  
19 I mean, here's someone who will have no incentive to leave all  
20 of that, to leave, especially if the parents take seriously, as  
21 they will, their obligation here to serve as the custodian.

22 In terms of the border issue, Los Angeles is not on  
23 the Mexico border. If it was San Diego, that would be closer,  
24 but Los Angeles is not. And the reality of today's world is  
25 that it is getting tougher and tougher for folks to travel from



1 one country to another. I know China has imposed great  
2 barriers for folks traveling over there. So it's not as it was  
3 before the pandemic. That's an issue that arises as well.

4 And I, and I would submit to Your Honor that the  
5 reasons for allowing him, him being my client, to be in this,  
6 it would be like a cocoon that he would be in -- I mean, he's  
7 going to have electronic monitoring; he's going to have  
8 computer monitoring; he's going to have folks who are  
9 responsible -- outweighs any of these other factors raised  
10 here.

11 So again, I would ask Your Honor under those  
12 circumstances to allow him to, to -- for bail under these  
13 circumstances that I've laid out.

14 THE COURT: All right. Well, counsel, I've heard the  
15 arguments of all of you, and I've looked at the papers, and I'm  
16 not satisfied -- I'm satisfied that the government has more  
17 than met its burden in this case, where there is already a  
18 probable cause finding that supports the charge in the  
19 indictment, that no condition or set of conditions of release  
20 would reasonably assure the appearance of the defendant in this  
21 district for the trial or any other court proceedings.

22 I am not satisfied that because of the extreme amount  
23 of international travel which this defendant has and the nature  
24 of the offense and the allegations -- I recognize you've  
25 offered an explanation but I don't -- I'm not satisfied it's

1 sufficient -- that this passport, which is apparently not in  
2 his true name, has an innocent explanation. Plus, the  
3 government has indicated that the use and one of the modus  
4 operandi of this operation was to use falsified identification.

5 In my view, that makes the defendant a flight risk,  
6 and therefore, I am denying the motion. And we'll see you-all  
7 sometime next week for an arraignment, and we'll try to get you  
8 a trial date as soon as possible, but I -- because some of the  
9 defendants in this case have been in custody over a year.

10 At the same time, because -- until this virus gets  
11 under control, we are limited even when we do begin jury trials  
12 to how we can try them. In other words, we can't try multiple  
13 trials at a time in this courthouse, especially a  
14 five-defendant case, and so I cannot guarantee you that  
15 there'll be a trial in the near future, unlike it was in the  
16 pre-COVID era. We'll do the best we can to get you a  
17 reasonably early trial date, but I wouldn't expect anything too  
18 soon.

19 So that concludes this proceeding. We'll see you-all  
20 some point next week. Thank you.

21 MR. PETERS: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (Which were all the proceedings  
24 had at this time.)  
25

## CERTIFICATE OF THE REPORTER

I certify that the foregoing is a correct transcript of  
the record of proceedings in the above-entitled matter.

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/s/

Anneliese J. Thomson